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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,005	Applicant(s) FUJII, YOSHINORI	
	Examiner /Stephen J. Castellano/	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 10-11 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 4-8 have been canceled. Claims 1-3 and 9-11 are pending.

Newly submitted claim 11 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 11 is directed to a lid configured to be put on the container according to claim 1. Claim 11 doesn't include any of the limitations of claim 1. Claim 11 covers different subject matter than the invention originally claimed, a packaging container.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 11 has been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 1363765 to Vermeulen.

Vermeulen discloses a packaging container molded of a synthetic resin (see page 2, lines 64-78), the container has a flange (2, 3) provided with regularly formed minute projections (on the upper side) and recesses (on the underside) arranged in a pattern of at least two rows and at least two columns (see Fig. 2-3) and an outer peripheral edge of the flange forms a vertically corrugated edge defined by a line crossing the minute projections and recesses (see page 2, lines 5-10 and 37-39, which states that the raised pattern extends across the whole of the rim or the

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upper surface of the flange and that any vertical parts of the rim or flange are entirely covered by the raised pattern).

Re claims 2 and 3, page 2, lines 18-19 state that the raised pattern projects from 0.1 to 3 mm. The 0.1mm distance is well within the stated amplitude (d) range “not more than 0.5 mm.” A distance for the pitch (p) when comparing the relative dimensions shown in Fig. 2 and 3 with the 0.1 mm distance is within the stated pitch (p) range “not more than 1.0 mm.”

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentry in view of Witmer.

With respect to claim 1, Gentry discloses a packaging container molded of a synthetic resin sheet (see paragraph [0017])having an opening (defined at the upper end of the sidewall 14), the container comprising a flange (rim 16) projecting outwardly from the opening, the flange is provided throughout with regularly distributed minute projections (the uppermost portion or crest of the waves 20) or minute recesses (the lowermost portion or trough of the waves 20) and an outer peripheral edge of the flange forms a vertically (the wave pattern of the outer peripheral edge extends in a vertical direction) corrugated edge (see Fig. 1 and 3-6) defined by a line crossing the projections or recesses (this outer peripheral edge line is substantially circular and has the wave pattern, this line is perpendicular to the ridge and groove lines formed by the

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projections and recesses, respectively). Gentry discloses the projections or recesses arranged in a pattern of a single row with numerous columns. Gentry discloses the invention except for the pattern having at least two rows. Witmer teaches a plate with a flange a pattern of projections (15, 15a) or recesses (16, 16a), the projections or recesses are arranged in a pattern of at least two rows and at least two columns. It would have been obvious to modify the arrangement of the projections and recesses of Gentry by adding at least two rows of projections/recesses or both to Gentry's flange at an inner peripheral location (i.e., spaced from the outer peripheral edge) on the flange as taught by Witmer which has the projections and recesses spaced from the outer peripheral edge and to align the added rows so that the projections or recesses align in the columns already established by Gentry's projections and recesses in order to add rigidity to the flange at its inner peripheral location to resist bending, while the outer peripheral area of the flange is allowed to (1) flatten, (2) reduce hoop stress and (3) minimize cracking or breaking at the outer peripheral edge.

With respect to claims 2 and 3, Gentry discloses a waveform of a vertically corrugated edge with a difference (amplitude of the waveform) within the range of not more than 0.5 mm as the stated 11 mils, 17 mils, 16 mils and 18 mils (see paragraphs [0026-0028]) are all within this range. Gentry fails to disclose the stated pitch or wavelength dimensions of a waveform of a vertically corrugated edge, a pitch being not being more than 1.0 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the pitch of the waveform as such, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272,205 USPQ 215 (CCPA 1980). Reducing the pitch or wavelength of Gentry with the same diameter

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of the bowl will effectively increase the total number of waveforms by a factor greater than 2.5 which will increase the reinforcing effect of the waveforms and enhance the bowl's overall strength.

Re claim 9, the outer peripheral edge of Gentry is not being modified. The outer peripheral edge of the flange of Gentry includes alternating minute projections and minute recesses.

Applicant's arguments filed November 3, 2008 have been fully considered but they are not persuasive.

The "arcuate in vertical cross section" limitation is said by applicant to not be shown by either Vermeulen, Gentry or Witmer. These statements are not well taken. Vermeulen discloses the projections and recesses are arcuate in vertical cross section by the curvatures viewed in the vertical cross section of Fig. 3 of Vermeulen. Gentry similarly discloses arcuate in vertical cross section as the edge on views of Fig. 3-6 of Gentry reveal a curve. Likewise, Witmer discloses in the vertical cross sections of Fig. 3 and 4 the curvatures associated with recesses and projections.

Applicant finds that Gentry and Witmer are corrugated for entirely different and opposing reasons and that a combination of their respective teachings would contradict the teachings of each. The rejection modifies Gentry by adding the corrugations (projections/recesses) of Witmer to corrugated structure of Gentry. Witmer's corrugations are not provided in a location of the outer peripheral edge while Gentry's corrugations are provided at the outer peripheral edge. The statement of the obviousness rejection has been changed to clearly state such. Gentry's accordion like rim is capable of flattening. Witmer uses corrugations to provide the necessary bending resistance or bending strength. The examiner doesn't find that an accordion like rim with the

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capability of flattening is inconsistent with a rim that also has corrugations to provide bending resistance. The addition of bending resistance at an inner peripheral flange location doesn't conflict with the relieving of hoop stress at an outer peripheral flange location.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3781

sjc